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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,186	02/14/2002	Gary Scott Fallowes	HJH/FAL	7262

7590 07/26/2004

Herman Hohauser  
6212 Berlee Drive  
Alexandria, VA 22312

EXAMINER
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YEUNG, GEORGE CHAN PUI

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/075,186	<b>Applicant(s)</b> FALLOWES, GARY SCOTT	
	<b>Examiner</b> George C Yeung	<b>Art Unit</b> 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 ~~is~~ are pending in the application.
- 4a) Of the above claim(s) 15-20, 24-27, 30 and 31 ~~is~~ are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 9-12, 14, 21-23 and 28 ~~is~~ are rejected.
- 7) ☒ Claim(s) 4, 7, 8, 13 and 29 ~~is~~ are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2002 ~~is~~ are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification Objection***

The specification is objected to because the Abstract appearing at page 1, line 2 through page 2, line 2, is superfluous and it should be deleted.

### ***Drawing Objections***

Figures 1-5 are objected to as being informal. Applicant is requested to submit new, formal drawings in response to this Office action.

### ***Claim Rejection - 35 USC § 112***

Claims 1-3, 5, 6, 9-12, 14, 21-23 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for the following reasons:

1. Claim 1 is incomplete and indefinite since it fails to recite the functional effect of the subjecting step. An amendment to claim 1, line 5, after "heat" inserting -- to cook the food items -- would obviate this rejection.
2. The parenthetical limitation "item(s)" recited in claim 1, line 5 is indefinite.
3. There is no antecedent basis for "the preparation process" as recited in claim 5.

4. There is no antecedent basis for "the heating process" as recited in claim 11.
5. The term "can be" recited in claim 22, line 1, is indefinite. The change of this term to -- is -- would overcome this rejection.
6. There is also no antecedent basis for "the cooking time" as recited in claim 23.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 6, 9-12, 14, 21-23 and 28 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Nersesian (U.S. Patent 5,709,142). See especially column 16, lines 60-62 of Nersesian. Note that the subject matter of claims 3, 6 and 21 read on the skewer eyelet 676 of Nersesian, which facilitates the removal of cooked food products from the skewer.

Claims 1, 3, 6, 9-12, 14, 21 and 22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Zenos (U.S. Patent 3,734,740). See especially column 4, lines 12-15 of Zenos. Note that the subject matter of claims 3, 6 and 21 read on the sleeve 39 of Zenos, which facilitates the removal of cooked food product from the skewer.

***Allowable Subject Matter***

Claims 4, 7, 8, 13 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


***Conclusion***

Any inquiry concerning this communication from the examiner should be directed to Examiner George C. Yeung whose telephone number is (571) 272-1412. The examiner can generally be reached on Monday-Friday from 10:30 a.m. to 7:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

G.C. Yeung/dh  
July 22, 2004

  
GEORGE C. YEUNG  
PRIMARY EXAMINER